

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

=====X Index No.: 13256/07
SALLY ANN DRUCKER,

Plaintiff,

NOTICE OF REMOVAL
TO FEDERAL COURT

-against-

JOHN D. CORRIERI AND PAUL D. CORRIERI,

Defendants.

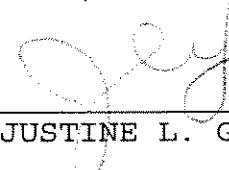
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PLEASE TAKE NOTICE that defendant has filed removal papers in the United States District Court for the Southern District of New York on the 16th day of July, 2007 removing the above-captioned matter to said Court. Attached hereto are copies of the papers filed.

Dated: New York, New York
July 11, 2007

Yours etc.,

KRAL, CLERKIN, REDMOND, RYAN,
PERRY & GIRVAN, LLP
Attorneys for Defendant
JOHN D. CORRIERI AND PAUL D.
CORRIERI
170 Broadway, 5th Floor
New York, New York 10038

By: 

JUSTINE L. GRISANTI (#0793)

TO: DAVID RESNICK & ASSOCIATES
Attorneys for Plaintiff
450 Seventh Avenue, Suite 409
New York, New York 10123
(212) 279-2000

JUDGE HOLWELL

07 CV 6432

CIVIL COVER SHEET

JS 44C/SDNY
REV. 1/97

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

SALLY DRUCKER

DEFENDANTS

Scottsdale Insurance Company

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

David Resnick & Associates
450 Seventh Avenue, Suite 409
New York, NY 10123

ATTORNEYS (IF KNOWN)

Kral, Clerkin, Redmond, Ryan, Perry &
Girvan, LLP
170 Broadway, 5th Fl., NY, NY 10038

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

The Court's diversity jurisdiction is claimed pursuant to 28 U.S.C.A. § 1332 and this action is hereby sought to be removed pursuant to 28 U.S.C.A. § 1411. This is a personal injury action whereby plaintiff seeks money damages.

Has this or a similar case been previously filed in SDNY at anytime? No? Yes? Judge Previously Assigned _____

If yes, was this case Vol. Invol. Dismissed. No Yes If yes, give date _____ & Case No. _____

(PLACE AN (X) IN ONE BOX ONLY)

NATURE OF SUIT

CONTRACT	TORTS	FORFEITURE/PENALTY	ACTIONS UNDER STATUTES	OTHER STATUTES
			BANKRUPTCY	
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 610 AGRICULTURE	<input type="checkbox"/> 400 STATE REAPPORTIONMENT
<input type="checkbox"/> 120 MARINE			<input type="checkbox"/> 620 FOOD & DRUG	<input type="checkbox"/> 410 ANTITRUST
<input type="checkbox"/> 130 MILITIA ACT	<input type="checkbox"/> 210 AIRPLANE	<input type="checkbox"/> 342 PERSONAL INJURY - MED MALPRACTICE	<input type="checkbox"/> 625 DRUG RELATED	<input type="checkbox"/> 430 BANKS & BANKING
<input type="checkbox"/> 140 NEGOTIABLE INSTRUMENT	<input type="checkbox"/> 215 AIRPLANE PRODUCT LIABILITY	<input type="checkbox"/> 345 PERSONAL INJURY PROPERTY LIABILITY	<input type="checkbox"/> 630 SEIZURE OF PROPERTY	<input type="checkbox"/> 450 COMMERCE/CC RATES/ETC
<input type="checkbox"/> 230 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	<input type="checkbox"/> 320 ASSAULT, LIBEL & SLANDER	<input type="checkbox"/> 348 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY	<input type="checkbox"/> 22 USC 1332	<input type="checkbox"/> 460 DEPORTATION
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 330 FEDERAL EMPLOYEES' LIABILITY	<input type="checkbox"/> 360 MARINE	<input type="checkbox"/> 630 LIQUOR LAWS	<input type="checkbox"/> 470 BACKTEEINFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
<input type="checkbox"/> 152 RECOVERY OF DEFALTED STUDENT LOANS (EXCL. VETERANS)	<input type="checkbox"/> 340 MARINE PRODUCT LIABILITY	<input type="checkbox"/> PERSONAL PROPERTY	<input type="checkbox"/> 640 R.R. & TRUCK	<input type="checkbox"/> 510 SELECTIVE SERVICE
<input type="checkbox"/> 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS	<input type="checkbox"/> 350 MOTOR VEHICLE PRODUCT LIABILITY	<input type="checkbox"/> 370 OTHER FRAUD	<input type="checkbox"/> 650 AIRLINE REGS	<input type="checkbox"/> 550 SECURITIES/COMMODITIES/EXCHANGE
<input type="checkbox"/> 160 STOCKHOLDERS' SUITS	<input type="checkbox"/> 355 MOTOR VEHICLE PRODUCT LIABILITY	<input type="checkbox"/> 371 TRUTH IN LENDING	<input type="checkbox"/> 660 OCCUPATIONAL SAFETY/HEALTH	<input type="checkbox"/> 575 CUSTOMER CHALLENGE
<input type="checkbox"/> 180 OTHER CONTRACT	<input checked="" type="checkbox"/> 360 OTHER PERSONAL INJURY	<input type="checkbox"/> 380 OTHER PERSONAL PROPERTY DAMAGE	<input type="checkbox"/> 670 OTHER	<input type="checkbox"/> 12 USC 3410
<input type="checkbox"/> 190 CONTRACT PRODUCT LIABILITY		<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY		
			<input type="checkbox"/> 710 FAIR LABOR STANDARDS ACT	<input type="checkbox"/> 691 AGRICULTURE ACTS
			<input type="checkbox"/> 720 LABOR/AGMT RELATIONS	<input type="checkbox"/> 692 ECONOMIC STABILIZATION ACT
			<input type="checkbox"/> 730 LABOR/AGMT REPORTING & DISCLOSURE ACT	<input type="checkbox"/> 693 ENVIRONMENTAL MATTERS
			<input type="checkbox"/> 740 RAILWAY LABOR ACT	<input type="checkbox"/> 694 ENERGY ALLOCATION ACT
			<input type="checkbox"/> 750 OTHER LABOR LITIGATION	<input type="checkbox"/> 695 FREEDOM OF INFORMATION ACT
			<input type="checkbox"/> 760 EMP. RET. INC SECURITY ACT	<input type="checkbox"/> 700 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
			<input type="checkbox"/> 870 TAXES	<input type="checkbox"/> 710 INSTITUTIONALITY OF STATE STATUTES
			<input type="checkbox"/> 871 3RD-THIRD PARTY	<input type="checkbox"/> 720 OTHER STATUTORY ACTIONS
			<input type="checkbox"/> 20 USC 7000	
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 LAND CONDEMNATION	<input type="checkbox"/> 441 WORKING	<input type="checkbox"/> 310 MOTIONS TO VACATE SENTENCE		
<input type="checkbox"/> 220 FORECLOSURE	<input type="checkbox"/> 442 EMPLOYMENT	<input type="checkbox"/> 320 HABEAS CORPUS		
<input type="checkbox"/> 230 RENT LEASE & EJECTMENT	<input type="checkbox"/> 447 ADDRESSING ACCOMMODATIONS	<input type="checkbox"/> 331 DEATH PENALTY		
<input type="checkbox"/> 240 TORTS TO LAND	<input type="checkbox"/> 448 WELFARE	<input type="checkbox"/> 340 MANDAMUS & OTHER		
<input type="checkbox"/> 240 TORT PRODUCT LIABILITY	<input type="checkbox"/> 449 OTHER CIVIL RIGHTS	<input type="checkbox"/> 350 CIVIL RIGHTS		
<input type="checkbox"/> 250 ALL OTHER REAL PROPERTY		<input type="checkbox"/> 355 PRISON CONDITION		

*Check if demanded in complaint:*CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?
IF SO, STATE:

DEMAND \$

OTHER

JUDGE

DOCKET NUMBER

*Check YES only if demanded in complaint:*JURY DEMAND: YES NO

DEFENDANTS WILL DEMAND A JURY IN ITS ANSWER

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.
(SEE REVERSE)

(PLACE AN X IN ONE BOX ONLY)			ORIGIN				
<input type="checkbox"/> 1 Original Proceedings	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Amended from Another Court	<input type="checkbox"/> 4 Remanded or Reopened	<input type="checkbox"/> 5 Transferred From (Diversity Docket)	<input type="checkbox"/> 6 Remanded To Magistrate Judge	<input type="checkbox"/> 7 Assigned to Circuit Judge from Magistrate Judge Assignment	
(PLACE AN X IN ONE BOX ONLY)			BASIS OF JURISDICTION			IF DIVERSITY, INDICATE CITIZENSHIP BELOW. (28 USC 1332, 1441)	
<input type="checkbox"/> 1 U.S. PLAINTIFF <input type="checkbox"/> 2 U.S. DEFENDANT			<input type="checkbox"/> 3 FEDERAL QUESTION U.S. NOT A PARTY			<input checked="" type="checkbox"/> 4 DIVERSITY	

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an (X) in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF 111 <input checked="" type="checkbox"/> 111	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF 113 113	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF 115 115
CITIZEN OF ANOTHER STATE	<input checked="" type="checkbox"/> 112	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE	114 114	FOREIGN NATION	116 116

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES) (Calendar Rule 4(A))

Sally Ann Drucker
818 N. Buchanan Boulevard
Durham, NC 27701

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES) (Calendar Rule 4(A))

John P. Corrieri
47-33 Fifth Street
Long Island City, NY 11101

Paul D. Corrieri
1481 Shore Drive
Bronx, NY 10465

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: WHITE PLAINS FOLEY SQUARE
(DO NOT check either box if this is a PRISONER PETITION.)

DATE 7/11/07 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT
I NO
X YES DATE ADMITTED Mo. 199
Attorney Bar Code # 0793 Yr.

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

James M. Parkison, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

JUDGE HOLWELL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

=====X
SALLY ANN DRUCKER,

Plaintiff,

NOTICE OF REMOVAL

-against-

JOHN D. CORRIERI AND PAUL D. CORRIERI,

Defendants.

=====X
TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

This Notice of Removal on behalf of defendants
respectfully shows:

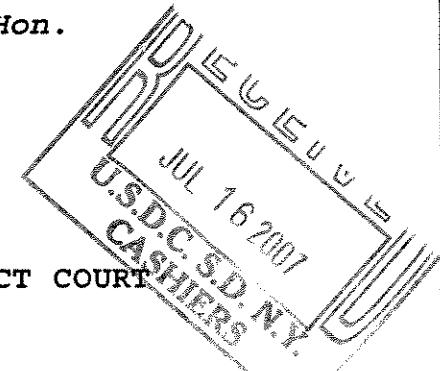
1. An action was commenced against defendants in the Supreme Court of the State of New York, Bronx County on March 23, 2007 with subsequent service of the Summons and Verified Complaint on the defendants through the Secretary of State on April 10, 2007, which action is entitled above. According to the Verified Complaint, plaintiff demands judgment "in a sum which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction." Copies of the Summons and Verified Complaint are attached hereto as **Exhibit "A."**

2. Defendants timely joined issue on May 18, 2007. A copy of the Verified Answer is annexed as **Exhibit "B".**

3. On May 18, 2007, defendant served a CPLR §3017(c) "Request for a Supplemental Demand" requiring

07 CV 6432

Hon.



plaintiff to set forth the total damages to which she deems herself entitled. A copy of the "Combined Demands" is annexed as **Exhibit "C"**.

4. Plaintiff's Response to Defendants' Combined Demands" was served on June 20, 2007. A copy is annexed as **Exhibit "D"**. In her response, plaintiff demands judgment against the defendant in the amount of \$800,000 together with costs and disbursements.

5. The above described action is now one in which this Court has original jurisdiction under the provisions of 28 U.S.C.A. 1332 and is one which may be removed to this Court by petitioner, pursuant to the provisions of 28 U.S.C.A. 1441 in that the matter in controversy exceeds the jurisdictional minimum for federal diversity actions exclusive of interest and costs.

6. Plaintiff was, at the time this action was commenced, a citizen of the State of North Carolina, County of Durham. Defendant Paul Corrieri, was, at the time this action was commenced, and still is, a citizen of the State of New York and resides in Bronx County. John Corrieri, was at the time this action was commenced, and still is, a resident of the State of New York and resides in Queens.

WHEREFORE, defendants request that the action now pending against it in the Supreme Court of the State of New York, Bronx County, be removed therefrom to this Court.

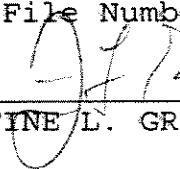
Dated: New York, New York
July 11, 2007

Yours etc.,

KRAL, CLERKIN, REDMOND,
RYAN, PERRY & GIRVAN, LLP
Attorneys for Defendant
JOHN D. CORRIERI AND PAUL D.
CORRIERI

170 Broadway, 5th Floor
New York, New York 10038
(212) 406-9710

Our File Number: 901774

By: 
JUSTINE L. GRISANTI (#0793)

TO: DAVID RESNICK & ASSOCIATES
Attorneys for Plaintiff
450 Seventh Avenue, Suite 409
New York, New York 10123
(212) 279-2000

EXHIBIT “A”

631 423 0956

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SALLY ANN DRUCKER, X

Plaintiff,

-against-

JOHN D. CORRIERI AND PAUL D. CORRIERI,

Defendants.

Index No.:

Date Purchased: 13256 - 57
3/23/07

SUMMONS

Plaintiff designates Bronx
County as the place of trial.The basis of venue is:
Defendant's residenceDefendant resides at
1481 Shore Drive
Bronx, NY 10469

County of Bronx

323541002
48

To the above named Defendants:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
March 21, 2007

DAVID RESNICK & ASSOCIATES, P.C.
Attorneys for Plaintiff
SALLY ANN DRUCKER
450 Seventh Avenue, Suite 409
New York, New York 10123
(212) 279-2000

TO: JOHN D. CORRIERI
47-33 5th Street
Long Island City, NY 11101PAUL D. CORRIERI
1481 Shore Drive
Bronx, NY 10465

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SALLY ANN DRUCKER, X

Plaintiff,

Index No.:
Date Purchased:

13256-07

against.

VERIFIED
COMPLAINT

JOHN D. CORRIERI AND PAUL D. CORRIERI,

Defendants.

X

Plaintiff, by her attorneys, DAVID RESNICK & ASSOCIATES, P.C., complaining of the Defendants, respectfully alleges, upon information and belief:

1. That at all times herein mentioned, Plaintiff SALLY ANN DRUCKER was, and still is, a resident of the County of Durham, State of North Carolina.
2. That at all times herein mentioned, Defendant JOHN D. CORRIERI was, and still is, a resident of the County of Queens, State of New York.
3. That at all times herein mentioned, Defendant PAUL D. CORRIERI was, and still is, a resident of the County of Bronx, State of New York.
4. That at all times herein mentioned, Defendant JOHN D. CORRIERI was the owner of a 1983 motor vehicle bearing New York State registration number 77390JJ.
5. That at all times herein mentioned, Defendant PAUL D. CORRIERI operated the aforementioned motor vehicle bearing New York State registration number 77390JJ.
6. That at all times herein mentioned, Defendant PAUL D. CORRIERI operated the aforementioned motor vehicle with the permission of Defendant JOHN D. CORRIERI.

7. That at all times herein mentioned, Defendant JOHN D. CORRIERI operated the aforementioned motor vehicle with the knowledge of the Defendant JOHN D. CORRIERI.
8. That at all times herein mentioned, Defendant PAUL D. CORRIERI operated the aforementioned motor vehicle with the consent of the Defendant JOHN D. CORRIERI.
9. That at all times herein mentioned, Defendant JOHN D. CORRIERI managed the aforesaid motor vehicle.
10. That at all times herein mentioned, Defendant PAUL D. CORRIERI managed the aforementioned motor vehicle.
11. That at all times herein mentioned, Defendant JOHN D. CORRIERI maintained the aforementioned motor vehicle.
12. That at all times herein mentioned, Defendant PAUL D. CORRIERI maintained the aforementioned motor vehicle.
13. That at all times herein mentioned, Defendant JOHN D. CORRIERI controlled the aforementioned motor vehicle.
14. That at all times herein mentioned, Defendant PAUL D. CORRIERI controlled the aforementioned motor vehicle.
15. That at all times herein mentioned, Defendant PAUL D. CORRIERI operated the aforementioned motor vehicle in the scope of his employment with JOHN D.

CORRIERI.

16. That at all times herein mentioned, Plaintiff **SALLY ANN DRUCKER** was the operator of a 2001 Volvo motor vehicle bearing North Carolina State registration number **SRD7756**.
17. That at all times herein mentioned, Vernon Blvd at or near its intersection with 48 Avenue, Queens, NY in the County of Queens, State of New York, was a public roadway, streets and/or thoroughfare.
18. That on September 11, 2006, Defendant **PAUL D. CORRIERI** was operating the vehicle owned by **JOHN D. CORRIERI**, at the aforementioned location.
19. That on September 11, 2006, Plaintiff **SALLY ANN DRUCKER** was operating her motor vehicle at the aforementioned location.
20. That on September 11, 2006, at the aforementioned location, the front of the motor vehicle owned by Defendant **JOHN D. CORRIERI** and operated by Defendant **PAUL D. CORRIERI** came into contact with the rear of the motor vehicle operated by Plaintiff **SALLY ANN DRUCKER**.
21. That as a result of the aforesaid contact, Plaintiff **SALLY ANN DRUCKER** was injured.
22. That the aforesaid occurrence was caused wholly and solely by reason of the negligence of the Defendants without any fault or negligence on the part of the Plaintiff

contributing thereto.

23. That Defendants were negligent, careless and reckless in the ownership, operation, management, maintenance, supervision, use and control of the aforesaid vehicle and the Defendants were otherwise negligent, careless and reckless under the circumstances then and there prevailing.

24. That by reason of the foregoing, Plaintiff **SALLY ANN DRUCKER** sustained severe and permanent personal injuries; and Plaintiff **SALLY ANN DRUCKER** was otherwise damaged.

25. That Plaintiff **SALLY ANN DRUCKER** sustained serious injuries as defined by Section 5102(d) of the Insurance Law of the State of New York.

26. That Plaintiff **SALLY ANN DRUCKER** sustained serious injuries and economic loss greater than basic economic loss as defined by Section 5104 of the Insurance Law of the State of New York.

27. That this action falls within one or more of the exceptions set forth in CPLR Section 1602.

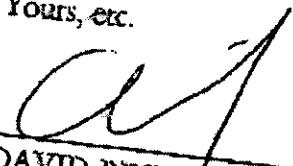
28. That by reason of the foregoing, Plaintiff **SALLY ANN DRUCKER** has been damaged in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demand judgment against the Defendants herein, in a

sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: New York, New York
March 21, 2007

Yours, etc.



DAVID RESNICK & ASSOCIATES, P.C.
Attorneys for Plaintiff
SALLY ANN DRUCKER
450 Seventh Avenue, Suite 409
New York, New York 10123
(212) 279-2000

ATTORNEYS VERIFICATION

DAVID RESNICK, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at **DAVID RESNICK & ASSOCIATES, P.C.**, attorneys of record for Plaintiff, **SALLY ANN DRUCKER**. I have read the annexed

COMPLAINT

and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

The reason this verification is made by me and not Plaintiff is that Plaintiff is not presently in the county wherein the attorneys for the plaintiff maintain their offices.

DATED: New York, New York
March 21, 2007


DAVID RESNICK

Index No.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SALLY ANN DRUCKER,

Plaintiff,

-against-

JOHN D. CORRIERI AND PAUL D. CORRIERI,

Defendants.

SUMMONS & VERIFIED COMPLAINT

DAVID RESNICK & ASSOCIATES, P.C.

Attorneys for Plaintiff
450 Seventh Avenue, Suite 409
New York, New York 10123
(212) 279-2000

EXHIBIT “B”

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

X

SALLY ANN DRUCKER,

VERIFIED ANSWER

Plaintiff,

-against-

Index No.: 13256/07

JOHN D. CORRIERI AND PAUL D. CORRIERI,

Defendants.

X

Defendants, JOHN D. CORRIERI AND PAUL D. CORRIERI, by its attorneys, KRAL, CLERKIN, REDMOND, RYAN, PERRY & GIRVAN, answering the complaint of plaintiff herein, sets forth the following upon information and belief:

FIRST. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "1", "2", "3", "12", "16" and "19" of the complaint.

SECOND. Denies the allegations contained in paragraphs "6" and "8" of the complaint except admits that Defendant, PAUL D. CORRIERI operated the aforementioned motor vehicle with the permission and consent of Defendant JOHN D. CORRIERI.

THIRD. Denies, in the form alleged, the allegations contained in paragraphs "9", "10", "13" and "14" of the complaint.

FOURTH. Denies the allegations contained in paragraphs "20", "21", "22", "23", "24" and "28" of the complaint.

FIFTH. Denies the allegations contained in paragraphs "25", "26" and "27" of the complaint and refers all questions of Law to the Court.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

SIXTH. Upon information and belief, the injury sustained by the plaintiff was not as the result of any culpable conduct of the defendants herein, or in the alternative, the amount of damages otherwise recoverable shall be diminished in the percentage proportion of the culpable

conduct of the plaintiff and/or others which contributed to the culpable conduct that caused the injury.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

SEVENTH. Defendants will rely upon the provisions of Article 16 of the CPLR with regard to the limitation of joint and several liability.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

EIGHTH. That the plaintiff could, with due diligence, have obtained personal jurisdiction over tortfeasors not a party to this lawsuit. Therefore, the culpability of these missing or absent tortfeasors may be computed into the apportionment of total culpability causing the subject occurrence.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

NINTH. Upon information and belief, any damages sustained by the plaintiff were caused by plaintiff's having voluntarily and unreasonably assumed a known and dangerous risk, and/or damages were caused by or aggravated by such conduct.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

TENTH. Any past or future costs or expenses incurred, or to be incurred by the claimant for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss that has been or may be replaced or indemnified, in whole or in part, from a collateral source as defined in Section 4545(c) of the Civil Practice Law and Rules, shall not be recoverable from the defendant and the amount of any such damage will be diminished by the amount of the funds that plaintiff has, or may receive, from such collateral sources.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

ELEVENTH. That the plaintiff did not use seatbelts therein provided and that the injuries claimed to have been sustained were caused, added to and exacerbated by the lack of use

of the seatbelt and plaintiffs did not avail themselves of the protective device to mitigate the injuries herein in accordance with the decision of Spier v. Barker, 35 N.Y.S.2d 444.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

TWELFTH. That the plaintiffs by not fastening the available seatbelt, acted unreasonably and disregarded his/her own best interest, and accordingly, caused or contributed to the happenings of this accident in accordance with Curry v. Moser, 454 N.Y.S.2d 311.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

THIRTEENTH. Plaintiff did not sustain serious and permanent injuries as defined by section 5102(d) of the Insurance Law of the State of New York and the exclusive remedy is confined and limited to the benefit and provision of Article 51 thereof.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

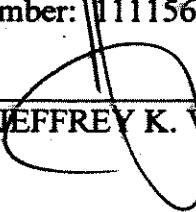
FOURTEENTH. The complaint is barred by Article 51 Section 5104 of the Insurance Law of the State of New York and the sole and exclusive remedy of plaintiff is confined and limited to the benefit and provisions of Article 51 of the Insurance Law of the State of New York.

WHEREFORE, defendants demand judgment dismissing the complaint of plaintiff herein, together with the costs and disbursements of the action, and the expenses incurred in the defense thereof.

Dated: New York, New York
May 18, 2007

Yours etc.,

**KRAL, CLERKIN, REDMOND, RYAN,
PERRY & GIRVAN, LLP**
Attorneys for Defendants
170 Broadway, Suite 500
New York, New York 10038
(212) 406-9710
File Number: 111156N

BY: 

JEFFREY K. VAN ETten

TO: **DAVID RESNICK & ASSOCIATES**
Attorneys for Plaintiff
450 Seventh Avenue, Ste. 409
New York, New York 10123
(212) 279-2000
Fax No.: (212) 594-7144

ATTORNEYS VERIFICATION

JEFFREY VAN ETSEN, affirms as follows:

I am an attorney admitted to practice in the Courts of the State of New York, and am the attorney for defendant in the within action, and as such, am fully familiar with all the facts and circumstances therein.

That the foregoing **VERIFIED ANSWER** is true to the knowledge of affirmant, except as to those matters stated to be alleged upon information and belief and that as to those matters he believes it to be true.

Affirmant further states that the reason that this verification is made by affirmant and not by defendant is that defendant does not reside within the County of New York, where affirmant maintains his office.

Affirmant further states that the sources of his knowledge and information are reports of investigations, conversations, writings and memoranda of this litigation.

The undersigned attorney affirms that the foregoing statements are true, under the penalties of perjury and pursuant to Rule 2106 CPLR.

Dated: New York, New York
May 18, 2007

JEFFREY K. VAN ETSEN

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JAIME INTAGLIATA, being duly sworn, deposes and says:

Deponent is not a party to the action, is over Eighteen (18) years of age and resides in the County of Richmond, City and State of New York.

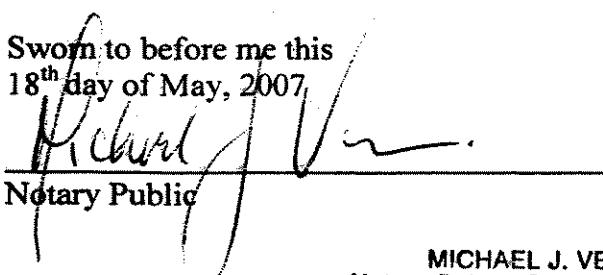
On May 18, 2007 deponent served the within **VERIFIED ANSWER, 511 DEMAND, DEMAND FOR VERIFIED BILL OF PARTICULARS, COMBINED DEMANDS, NOTICE TO RPODUCE, EBT NOTICE, DEMAND FOR PHOTOGRAPHS, DEMAND FOR EXPERT WITNESS INFORMATION, DEMAND FOR COLLATERAL SOURCE INFORMATION and DEMAND FOR DAMAGES** upon the attorneys listed below by mailing the same, by regular mail in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

TO: DAVID RESNICK & ASSOCIATES
Attorneys for Plaintiff
450 Seventh Avenue, Ste. 409
New York, New York 10123
(212) 279-2000
Fax No.: (212) 594-7144



JAIME INTAGLIATA

Sworn to before me this
18th day of May, 2007



Notary Public

MICHAEL J. VERAS
Notary Public, State of New York
No. 02VE6153362
Qualified in Richmond County
Commission Expires October 2, 20 10

EXHIBIT “C”

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SALLY ANN DRUCKER,

Combined Demands

Plaintiff,

-against-

Index No.: 13256/07

JOHN D. CORRIERI AND PAUL D. CORRIERI,

Defendants.

X

S I R S:

PLEASE TAKE NOTICE, that defendants, hereby demand that plaintiff provide the following pursuant to the Civil Practice Law & Rules within thirty (30) days after receipt of this demand:

1. Set forth the Index Number obtained by plaintiff upon filing of the affidavit of service as well as providing duplicate copies of the receipts for the purchase of the index number.
2. Authorizations to obtain plaintiff's hospital records and x-rays regarding any hospitalization resulting from the incident complained of in plaintiff's Complaint.
3. Authorizations to obtain the records and reports of any physicians who treated the plaintiff as a result of the incident alleged in plaintiff's Complaint.
4. Books, records, correspondence, notations and memoranda by whatever name known which would reflect the total income earned by the plaintiff for the years 2002 to the present or copies of income tax returns for said enumerated years and authorizations to obtain same from the Internal Revenue Service.
5. The names and addresses of all witnesses to:
 - a. the occurrence alleged in plaintiff's Complaint;

b. any acts, omissions or conditions which allegedly caused the occurrence alleged in plaintiffs complaint;

c. any actual notice given to the defendant herein of any condition which allegedly caused the occurrence in plaintiff's Complaint.

d. the nature and duration of any alleged condition which allegedly caused the occurrence in plaintiff's Complaint.

6. The undersigned demands upon behalf of the defendant in this action that pursuant to CPLR Article 31, you produce and permit the undersigned to discover, inspect and copy each and every statement made or taken by each party and his, her or its agents, servants and/or employees now in your possession, custody or control or in the possession, custody or control of any party you represent in this action, if any such statement in any manner bears on the issues in this action. If no such statement in the possession, custody or control of any parties you represent in this action, so state in the sworn reply to this demand.

PLEASE TAKE FURTHER NOTICE, that the foregoing is a continuing demand and upon your failure to produce the aforesaid information and/or documents, a motion may be made and costs may be requested.

Dated: New York, New York
May 18, 2007

Yours etc.,

KRAL, CLERKIN, REDMOND, RYAN,
PERRY & GIRVAN, LLP
Attorneys for Defendants
170 Broadway, Suite 500
New York, New York 10038
(212) 406-9710
File Number: 111156N

BY:

JEFFREY K. VAN ETTE

EXHIBIT “D”

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
SALLY ANN DRUCKER,

Plaintiff,

-against-

RESPONSE TO
DEFENDANTS
COMBINED
DEMANDS

Index No.:13256/07

JOHN D. CORRIERI AND PAUL D. CORRIERI,

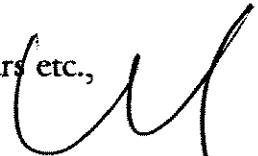
Defendants.

-----X

Plaintiff, by her attorneys, DAVID RESNICK & ASSOCIATES, P.C., as and for a response to Defendants, Combined Demands, alleges upon information and belief, as follows:

1. Demand for damages is \$800,000.00

Dated: NEW YORK, NEW YORK
June 20, 2007

Yours etc., 

DAVID RESNICK & ASSOCIATES, P.C.
Attorneys for Plaintiff
SALLY ANN DRUCKER
450 Seventh Avenue, Suite 409
New York, New York 10123
(212) 279-2000

TO: KRAL, CLERKIN, REDMOND, RYAN, PERRY & GIRVAN
Attorneys for Defendants
PAUL D. CORRIERI & JOHN D. CORRIERI
69 East Jericho Turnpike
Mineola, NY 11501
(516) 742-3470

AFFIDAVIT OF SERVICE

STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

Maribel Rodriguez being duly sworn, deposes and says:

I am over 18 years of age, I am not a party to the action, and I reside in Kings County in the State of New York.

I served a true copy of the annexed

RESPONSE TO DEFENDANTS COMBINED DEMANDS

on June 20, 2007

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee as indicated below:

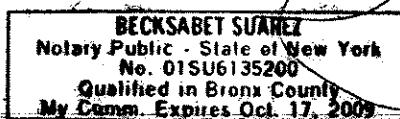
Kral, Clerkin, Redmond, Ryan, Perry & Girvan
Attorneys for Defendants
PAUL D. CORRIERI & JOHN D. CORRIERI
69 East Jericho Turnpike
Mineola, NY 11501
(516) 742-3470



Maribel Rodriguez

Sworn to before me June 20, 2007

Notary Public



Index No. 13256/07

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SALLY ANN DRUCKER,

Plaintiff,

-against-

JOHN D. CORRIERI AND PAUL D. CORRIERI,

Defendants.

RESPONSE TO DEFENDANTS COMBINED DEMANDS

DAVID RESNICK & ASSOCIATES, P.C.

Attorneys for Plaintiff

**450 Seventh Avenue, Suite 409
New York, New York 10123
(212)279-2000**

TO: **KRAL, CLERKIN, REDMOND, RYAN, PERRY & GIRVAN**
Attorneys for Defendants
PAUL D. CORRIERI & JOHN D. CORRIERI
69 East Jericho Turnpike
Mineola, NY 11501
(516) 742-3470

7/17/2007

STATE OF NEW YORK, COUNTY OF

ss:

I, the undersigned, am an attorney admitted to practice in the courts of New York, and

 Attorney's Certification

certify that the annexed

has been compared by me with the original and found to be a true and complete copy thereof.

say that: I am the attorney of record, or of counsel with the attorney(s) of record, for

 Attorney's Verification

I have read the annexed NOTICE OF REMOVAL

know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following. **The information contained in my files.**

The reason I make this affirmation instead of defendants is that defendants reside in a County other than where deponent maintains her office.

I affirm that the foregoing statements are true under penalties of perjury.

Dated: New York, New York

July 11, 2007

STATE OF NEW YORK, COUNTY OF

JUSTINE L. GRISANTI

(Print signer's name below signature)

ss:

being sworn says: I am

 Individual Verification

in the action herein; I have read the annexed

know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.

 Corporate Verification

the of

a corporation, one of the parties to the action; I have read the annexed

know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.

My belief, as to those matters therein not stated upon knowledge, is based upon the following:

Sworn to before me on

, 20

(Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF

ss:

being sworn says: I am not a party to the action, am over 18 years of

age and reside at

On

, 20, I served a true copy of the annexed

in the following manner:

 Service by Mail

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last-known address of the addressee(s) as indicated below:

 Personal Service

by delivering the same personally to the persons at the address indicated below:

 Service by Electronic Means

by transmitting the same to the attorney by electronic means to the telephone number or other station or other limitation designated by the attorney for that purpose. In doing so I received a signal from the equipment of the attorney indicating that the transmission was received, and mailed a copy of same to that attorney, in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the last-known address of the addressee(s) as indicated below:

 Overnight Delivery Service

by depositing the same with an overnight delivery service in a wrapper properly addressed. Said delivery was made prior to the latest time designated by the overnight delivery service for overnight delivery. The address and delivery service are indicated below:

Index No. 13256/07

Year 20

SUPREME COURT OF THE STATE OF NEW YORK: COUNTY OF BRONX

SALLY ANN DRUCKER,

Plaintiffs,

-against-

JOHN D. CORRIERI AND PAUL D. CORRIERI,

Defendants.

NOTICE OF REMOVAL

KRAL, CLERKIN, REDMOND, RYAN
PERRY & GIRVAN, LLP

Attorneys for

Defendants,

170 BROADWAY
NEW YORK, NEW YORK 10038
(212) 406-9710

§2103 (b) (5) Notice: Service of Papers by Electronic Means is Not Accepted

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: July 11, 2007

Signature.....

Print Signer's Name..... JUSTINE L. GRISANTI.....

Service of a copy of the within

is hereby admitted.

Dated:

.....
Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

 NOTICE OF ENTRYthat the within is a (certified) true copy of a
entered in the office of the clerk of the within named Court on

20

 NOTICE OF SETTLEMENTthat an Order of which the within is a true copy will be presented for settlement to the
Hon. one of the judges of the within named Court,
at

on

20 , at M.

Dated:

KRAL, CLERKIN, REDMOND, RYAN
PERRY & GIRVAN, LLP

Attorneys for

AFFIDAVIT OF SERVICE

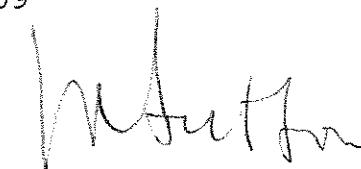
STATE OF NEW YORK)
: ss.
COUNTY OF NEW YORK)

MICHELE SUTTON, being duly sworn deposes and says:

Deponent is not a party to the action, is over Eighteen (18) years of age and resides in Staten Island, New York.

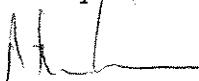
On July 17, 2007, deponent served the within NOTICE OF REMOVAL, CIVIL COVER SHEET and NOTICE OF REMOVAL TO FEDERAL COURT upon the attorney(s) listed below at the address designated by said attorneys for that purpose by depositing a true copy of same enclosed in a post-paid addressed wrapper with self-addressed stamped envelopes in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

DAVID RESNICK & ASSOCIATES
Attorneys for Plaintiff
450 Seventh Avenue, Suite 409
New York, New York 10123
(212) 279-2000



MICHELE SUTTON

Sworn to before me on this
17 day of July, 2007



NOTARY PUBLIC

MARCIA M. GOLDSON
Notary Public, State of New York
No. 01G06029683
Qualified in Richmond County
Commission Expires August 29, 2009

Index No. 13256/07

Year 20

SUPREME COURT OF THE STATE OF NEW YORK:COUNTY OF BRONX

SALLY ANN DRUCKER,

Plaintiffs,

-against-

JOHN D. CORRIERI AND PAUL D. CORRIERI,

Defendants.

NOTICE OF REMOVAL TO FEDERAL COURT

**KRAL, CLERKIN, REDMOND, RYAN
 PERRY & GIRVAN, LLP**

Attorneys for

Defendants.

170 BROADWAY
 NEW YORK, NEW YORK 10038
 (212) 406-9710

§2103 (b) (5) Notice: Service of Papers by Electronic Means is Not Accepted

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: July 17, 2007 Signature.....

Print Signer's Name..... JUSTINE L. GRISANTI.....

Service of a copy of the within is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

that the within is a (certified) true copy of a
 entered in the office of the clerk of the within named Court on

20

NOTICE OF
 ENTRY
 SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the
 Hon. one of the judges of the within named Court,
 at
 on

20 , at M.

Dated:

**KRAL, CLERKIN, REDMOND, RYAN
 PERRY & GIRVAN, LLP**

Attorneys for